



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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AMMENDED MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

PROVIDENCE MEMORIAL HOSPITAL
c/o LAW OFFICE OF P MATTHEW ONEILL
6514 MCNEIL DRIVE BLDG 2 SUITE 201
AUSTIN TX 78729

Carrier's Austin Representative Box

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MFDR Date Received

JULY 10, 1998

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-99-0720-02

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: The requestor did not submit a position summary in the dispute packet.

Amount in Dispute: \$16,347.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated September 16, 1998: "The Fund's payment to Petitioner was based on a reimbursement methodology of a flat rate per day for acute care inpatient services...The Fund also contends that Petitioner's evidence fails to meet Petitioner's burden of proof to establish by a preponderance of the credible evidence that the Fund's reimbursement methodology falls short of the statutory standards for payment set forth above."

Response Submitted by: Texas Workers' Compensation Insurance Fund

Respondent's Position Summary Dated November 23, 1998: "The charges for outpatient services on 11/03/97 need to be correctly submitted on an outpatient hospital bill for consideration of payment separate from the hospital per diem...Payment for one day surgical hospital stay, per the 08/01/97 TWCC Hospital Fee Guideline, will be forthcoming to the provider under separate cover based on Length of Stay by Diagnosis and Operations Southern Region, 1998 by HCIA. Payment for the implant will be made in accordance with the 08/01/97 TWCC Hospital fee Guideline which is cost plus 10%. The Fund respectfully requests Providence Memorial Hospital to withdraw the request for medical dispute resolution in lieu of the above mentioned payments made and the need consideration of properly completed billing and documentation."

Response Submitted by: Texas Workers' Compensation Insurance Fund

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
November 3, 1997	Outpatient Hospital Services	\$16,347.00	\$0.00
November 3, 1997 through November 20, 1997	Inpatient Hospital Services		\$4,472.00
TOTAL		\$16,347.00	\$4,472.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

This amended findings and decision supersedes all previous decisions rendered in this medical payment dispute involving the above requestor and respondent.

Background

1. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.
2. Former 28 Texas Administrative Code §133.305, effective June 3, 1991, 16 *Texas Register* 2830, sets out the procedures for resolving medical fee disputes.
3. Former 28 Texas Administrative Code §134.1(f) effective October 7, 1991, 16 *Texas Register* 5210, sets out the reimbursement guidelines for the services in dispute.
4. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- F-Reimbursed in accordance with the Texas Hospital Inpatient Fee Guideline.
- M-Reimbursed according to fair and reasonable standards.

Issues

1. Is the requestor entitled to reimbursement for date of service November 3, 1997?
2. Did the audited charges exceed \$40,000.00?
3. Did the admission in dispute involve unusually extensive services?
4. Did the admission in dispute involve unusually costly services?
5. Is the requestor entitled to additional reimbursement for dates of service November 12, 1997 through November 20, 1997?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 *Texas Register* 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 *South Western Reporter Third* 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services." Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that "Independent

reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection...” 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. Former 28 Texas Administrative Code §133.305(d)(7) requires the requestor to submit “copies of all written communication and memoranda relating to the dispute.”

The Division finds no documentation regarding communication between the parties relating to November 3, 1997.

Former 28 Texas Administrative Code §133.305(d)(8) requires the requestor to submit “documentation indicating efforts have been made to attempt to resolve this dispute between the parties.”

The Division finds no documentation indicating efforts have been made to resolve dispute relating to November 3, 1997.

Former 28 Texas Administrative Code §133.305(d)(9) requires the requestor to submit “copies of all medical bills, which are disputed, as originally submitted to the insurance carrier.”

The respondent states in the position summary that “The charges for outpatient services on 11/03/97 need to be correctly submitted on an outpatient hospital bill for consideration of payment separate from the hospital per diem.”

Review of the submitted documentation finds a bill for date of service November 3, 1997 was not included in the packet.

Former 28 Texas Administrative Code §133.305(d)(10) requires the requestor to submit “a summary of the requesting party’s position regarding the dispute”.

Review of the submitted documentation finds that the requestor did not submit a position summary.

The Division concludes that the requestor has not met the requirements of Former 28 Texas Administrative Code §133.305(d)(7-10). As a result, reimbursement for date of service November 3, 1997 is not recommended.

2. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states “...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold.” Furthermore, (A) (v) of that same section states “...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed...” Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$40,577.10. The Division concludes that the total audited charges exceed \$40,000.
3. 28 Texas Administrative Code §134.401(c)(2)(C) allows for payment under the stop-loss exception on a case-by-case basis only if the particular case exceeds the stop-loss threshold as described in paragraph (6). Paragraph (6)(A)(ii) states that “This stop-loss threshold is established to ensure compensation for unusually extensive services required during an admission.” The Third Court of Appeals’ November 13, 2008 opinion states that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services” and further states that “...independent reimbursement under the Stop-Loss Exception was meant to apply on a case-by-case basis in relatively few cases.” The requestor’s documentation fails to meet the requirements of §134.401(c)(2)(C) because the requestor does not demonstrate how the services in dispute were unusually extensive in relation to similar spinal surgery services or admissions. The division concludes that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(2)(C).
4. 28 Texas Administrative Code §134.401(c)(6) states that “Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker.” The Third Court of Appeals’ November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must demonstrate that an admission involved unusually costly services. The requestor does not provide a reasonable comparison between the cost associated with this admission when compared to similar spinal surgery services or admissions, thereby failing to demonstrate that the admission in dispute was unusually costly. The division concludes that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(6).
5. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The

Division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.

- Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that “The applicable Workers’ Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission...” The length of stay was eight days from November 12, 1997 through November 20, 1997. The surgical per diem rate of \$1,118.00 multiplied by the length of stay of eight days results in an allowable amount of \$8,944.00.
- 28 Texas Administrative Code §134.401(c)(4)(B) allows that “When medically necessary the following services indicated by revenue codes shall be reimbursed at a fair and reasonable rate: (iv) Blood (revenue codes 380-399).” A review of the submitted hospital bill finds that the requestor billed \$2250.50 for revenue code 380-Blood Gen. 28 Texas Administrative Code §133.307(g)(3)(D), requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement.” Review of the submitted documentation finds that the requestor does not demonstrate or justify that the amount sought for revenue code 380 would be a fair and reasonable rate of reimbursement. Additional payment cannot be recommended.

The division concludes that the total allowable for this admission is \$8,944.00. According to the submitted explanation of benefits the respondent issued payment in the amount of \$4,472.00 for dates of service November 12, 1997 through November 20, 1997. Based upon the documentation submitted, additional reimbursement in the amount of \$4,472.00 is recommended.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to demonstrate that the disputed inpatient hospital admission involved unusually extensive services, and failed to demonstrate that the services in dispute were unusually costly. Consequently, 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in additional reimbursement \$4,472.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$4,472.00 plus applicable accrued interest per 28 Texas Administrative Code §134.803, due within 30 days of receipt of this Order.

Authorized Signature

		1/25/2013
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.